1	Mathew K. Higbee, Esq., State Bar No. 241380 HIGBEE & ASSOCIATES 1504 Brookhollow Dr., Suite 112 Santa Ana, CA 92705 (714) 617-8373 (714) 597-6559 facsimile	
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4	mhigbee@higbee.law Attorneys for Plaintiff,	
5	GIAMPAOLO SGURA	
6		
7	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA	
8		
9	GIAMPAOLO SGURA,	Case No. 2:23-cv-4253
10	Plaintiff,	COMPLAINT FOR
11	V.	(1) COPYRIGHT INFRINGEMENT
12	BLISSY, LLC; and DOES 1 through 10 inclusive,	
13	Defendants.	
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16	Plaintiff Giampaolo Sgura, for its Complaint against Defendants BLISSY,	
17	LLC, and DOES 1 through 10 inclusive, alleges as follows:	
18	JURISDICTION AND VENUE	
19	1. This is a civil action seeking damages and injunctive relief for copyright	
20	infringement under the Copyright Act of the United States, 17 U.S.C. § 101 et seq.	
21	2. This Court has subject matter jurisdiction over Plaintiff's claims for	
22	copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).	

This court has personal jurisdiction over Defendants because

Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and

Defendants' acts of infringement complained of herein occurred in the state of

California, Defendants' acts of infringement were directed towards the state of

California, Defendants caused injury to Plaintiff within the state of California, and

Defendants have a physical presence in the state of California.

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1400(a) in that this is the judicial district in which substantial part of the acts and omissions giving rise to the claim occurred.

## **PARTIES**

- 5. Plaintiff Giampaolo Sgura is an Italian fashion photographer.
- 6. Defendant BLISSY, LLC is a limited liability company with a business address of 2140 N Hollywood Way, Suite #10639, Burbank, CA 91505.
- 7. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sues such Defendants under such fictitious names. Plaintiff is informed and believes and on that basis alleges that such fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by the conduct of said Defendants. Plaintiff will seek to amend the complaint when the names and capacities of such fictitiously named Defendants are ascertained. As alleged herein, "Defendant" shall mean all named Defendants and all fictitiously named Defendants.

## **FACTUAL ALLEGATIONS**

- 8. Plaintiff Giampaolo Sgura is a professional fashion photographer.
- 9. Sgura is the author of model posing in a bed ("Sgura Photograph").
- 10. The Sgura Photograph is registered with the United States Copyright Office under registration number VA 2-253-759.
- 11. Attached hereto as Exhibit A is a true and correct copy of the Sgura Photograph.
- 12. Defendant BLISSY, LLC ("BLISSY") is company that sells natural and hypoallergenic silk pillowcases.
- 13. Defendant BLISSY advertises its product through various channels including via the social media network Instagram.
- 14. Defendant BLISSY owns and operates the Instagram account @blissybrand, which is uses to market and advertise its product.

- 15. One of the features of the Instagram platform is "Instagram Stories" which allows account holders to share short format images and videos.
- 16. The Instagram platform allows businesses to advertise via a sponsored Instagram Story that is pushed to users of the Instagram platform and allows for user viewing the sponsored post to click on the story and be linked directly to the sponsoring business's Instagram account or website, or to purchase a product directly through Instagram.
- 17. Subsequently, Sgura discovered that BLISSY was utilizing the Sgura Photograph in a sponsored Instagram Story advertising its product and encouraging viewers of the post to "[s]hop the ultimate beauty secret."
- 18. Attached hereto as Exhibit B is a true and correct screenshot of the sponsored Instagram Story featuring the use of the Sgura Photographs.
- 19. Sgura never gave BLISSY permission to use the Sgura Photograph in the sponsored Instagram Story.

## FIRST CAUSE OF ACTION COPYRIGHT INFRINGEMENT 17 U.S.C. § 101 et seq.

- 20. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 21. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original Photograph by Defendant.
- 22. Plaintiff is informed and believes and thereon alleges that said Defendant willfully infringed upon Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, because, *inter alia*, the Defendant also knew or should have known that it did not have a legitimate license for the Photograph.
- 23. As a result of Defendant's violation of Title 17 of the U.S. Code, Plaintiff is entitled to actual damages and profits pursuant to 17 U.S.C. §504(b), or statutory damages for each infringement pursuant to 17 U.S.C. § 504(c).
  - 24. As a result of the Defendant's violations of Title 17 of the U.S. Code,

1 the court in its discretion may allow the recovery of full costs as well as reasonable 2 attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant. 3 Plaintiff is also entitled to injunctive relief to prevent or restrain 4 infringement of her copyright pursuant to 17 U.S.C. § 502 5 PRAYER FOR RELIEF 6 WHEREFORE, Plaintiff prays for judgment against Defendant as follows: 7 For an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, 8 9 an award for statutory damages for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger; 10 For costs of litigation and reasonable attorney's fees against Defendant 11 pursuant to 17 U.S.C. § 505; 12 For an injunction preventing each Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; 13 For pre judgment interest as permitted by law; and 14 For any other relief the Court deems just and proper. 15 16 Dated: May 31, 2022 Respectfully submitted, 17 /s/ Mathew K. Higbee Mathew K. Higbee, Esq. 18 Cal. Bar No. 241380 HIGBEE & ASSOCIATES 19 1504 Brookhollow Dr., Ste 112 Santa Ana, CA 92705-5418 20 (714) 617-8373 (714) 597-6559 facsimile 21 Attorney for Plaintiff 22 23 24 25 26 27 28

**DEMAND FOR JURY TRIAL** Plaintiff Giampaolo Sgura hereby demands a trial by jury in the above matter. Respectfully submitted, Dated: May 31, 2022 /s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
Cal. Bar No. 241380
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